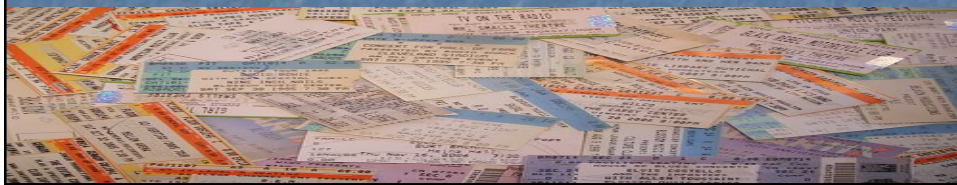




Revenue Laws Study Committee  
February 3, 2010

# Ticket Resales

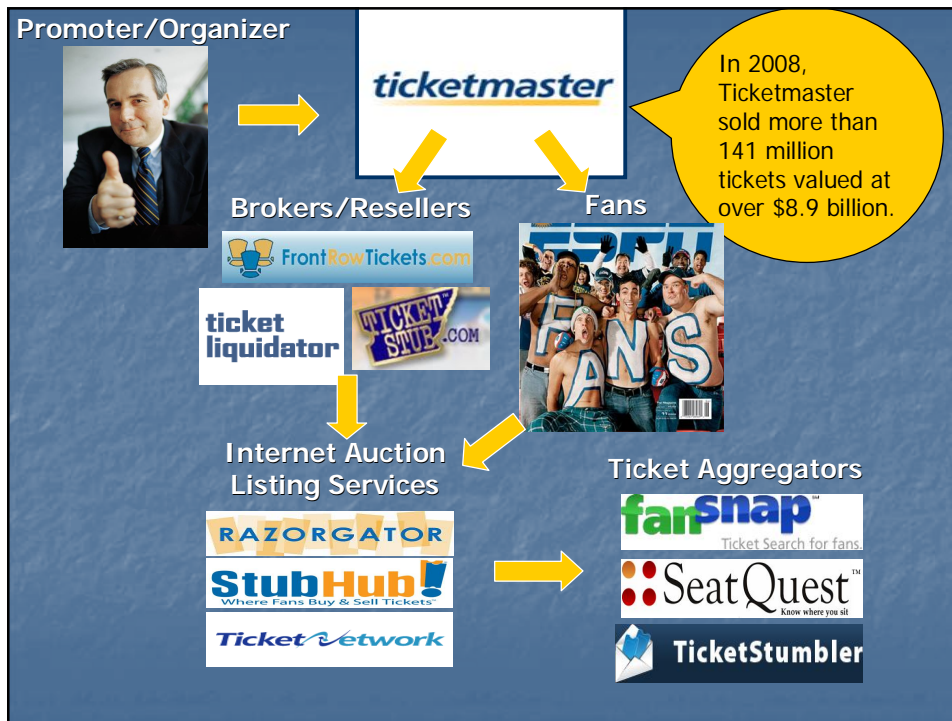
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# Ticket Scalping

- What? - Reselling tickets to popular entertainment or sporting events at whatever price the market will bear.
- Why? - Popularity of event + limited number of tickets + underpricing = higher demand
- Response? - Anti-scalping laws aimed at controlling location, price, and nuisance effect. Violation typically a criminal misdemeanor. Infrequently enforced.





## Ticket Brokers/Resellers



- Physical or virtual business location.
- Vast network of ticket contacts (e.g. season ticket holders; pre-sales), use of automated computer software.
- Revenue model - markup price of tickets.
- Regulated in some states

## Auction Listing Services

- Internet venue where 3<sup>rd</sup> parties buy sell tickets.
- Guarantee satisfaction.
- Buyers do not deal directly with sellers, but with the listing service.
- Revenue model - site collects purchase price from buyer, keeps a percentage as a fee, and remits balance to seller.



## Ticket Aggregators



- A comparison shopping service for event tickets
- Operates like a search engine.
- Collects a fee for every lead it generates for its affiliates.
- Revenue model - ticket brokers pay 6%-16% of a ticket's selling price as a lead fee.



TicketStumbler

## Some Statistics

- In 2008, there was **\$3.0 B** in online secondary ticket sales, a 15% increase from previous year.
- Expected to grow to **\$4.5 B** by 2012.
- It is estimated that **20-30%** of tickets are sold on the secondary market.
- **40%** of sales are for face value or less.
- In 2009, StubHub had a **65%** increase in concert ticket volume, a **40%** increase in gross concert sales, but the average ticket price dropped **16%**. Majority of tickets sold are for sporting events.

## The Industry Today

- Anti-scalping laws don't work and don't reflect current realities.
- Trend is toward deregulation, but with consumer protections.
- Artists/teams seek more control with regard to resale of their tickets.
- Consumers concerned about high prices and accessibility and predatory practices (e.g. Hannah Montana, Bruce Springsteen).

## Legislative Response

- No federal law directly governing ticket resales.
  - Proposed legislation prohibiting resale of free inauguration tickets failed.
  - Proposed legislation to provide more transparency and create 48-hour waiting period before tickets may be resold still pending (BOSS ACT)
- State/local regulation of industry – at least 27 states
  - Caps
  - Licensure/Registration
  - Guarantees





## North Carolina Law on Ticket Scalping

- A person who sells a ticket in excess of \$3.00 above face value is guilty of a Class 2 misdemeanor. [G.S. 14-344]
- But, promoter/operator of event and ticket sales agency may agree in writing to a greater service fee for a first sale of tickets.



## North Carolina Law on Internet Ticket Resales

- A person may resell an admission ticket on the Internet with no cap on price unless prohibited by the venue. [G.S. 14-344.1, eff. 8/1/2008]
- Ticket reseller must guarantee the purchaser a full refund if:
  - Event is cancelled.
  - Purchaser is denied admission (other than due to an act or omission by the purchaser).
  - Ticket is not delivered as promised resulting in purchaser's inability to attend event.



## North Carolina Law on Prohibiting Internet Resales

- A venue may prohibit Internet resales if it files a notice of prohibition with and pays \$125 fee to the Secretary of State.
- Venue and ticket seller must post notice conspicuously on their Web sites.
- Not valid until 30 days after notice is posted.
- Must be renewed annually.



## Reporting Requirement

- 2008 legislation requires Internet ticket resellers to report to Revenue on monthly basis their gross receipts for NC events.
- Since August 2008, there have been 58 reports
  - Acquisition amt. = \$872,171
  - Total sales = \$1.37 million
  - Net proceeds = \$502,296
- DOR has recommended repealing reporting requirement.

## Taxation of Ticket Sales

- 3% privilege tax imposed on gross receipts of a person who offers or manages a taxable amusement:
  - A dance or athletic contest for which admission fee in excess of 50¢ is charged.
  - Amusement or entertainment for which an admission is charged.
  - A performance, show, or exhibition, such as a circus or dog show.

## Taxation of Ticket Resales

- Resales are not subject to tax because the secondary seller is not “giving, offering, managing, or exhibiting” the amusement.
- Reseller doesn't fall within scope of statute.
- SB 1407 (2008 Session), as passed by the Senate Finance Committee, imposed a 3% privilege tax on an Internet ticket reseller's markup.
- The tax provision was deleted from the bill in the House Finance Committee.



# Should the Markup Be Taxed?

## ■ Policy Arguments

- For
- Against

## Policy Arguments

### For

- **Consistency**
  - Application of tax should be consistent with purpose.
  - Resales should be treated similarly.
- **Fairness** – Would equalize treatment of primary and secondary sellers.
- **Deterrence of Tax Avoidance**
- **Modernization** – Laws should reflect current practice.

### Against

- More taxes in a lagging economy will slow sales.
- Resellers are providing a service rather than the sale of an admission.

## Should the Markup Be Taxed?

- **Policy Arguments**
  - For
  - Against
- **Who should be required to collect the tax?**
  - Ticket brokers/resellers
  - Internet auction listing services
  - Ticket aggregators

## Should the Markup Be Taxed?

- **Policy Arguments**
  - For
  - Against
- **Who should be required to collect the tax?**
  - Ticket brokers/resellers
  - Internet auction listing services
  - Ticket aggregators
- **Details to be Addressed**
  - Accounting for losses
  - Minimum threshold? Convert to sales tax and apply to those engaged in the business?
  - Equal treatment for non-Internet resales
  - Sourcing

## Conclusion

- Neither industry is currently covered by the tax laws because they didn't exist when the tax laws were enacted.
- The issue of whether to tax the markup of OTCs and ticket resellers is similar to the digital download issue, which this Committee acted on last year.
- Strong tax policy reasons exist to support the extension of the applicable tax to OTCs and ticket resellers.
- The application and sourcing of the tax may turn on how the transactions are characterized (i.e. Do they provide a service or furnish accommodations or admissions?).